

CHAPTER 12.04

Excavations and Public Ways

12.04.010 Excavations – permit required – exemptions.

Any excavation or opening in or under the surface of any street, alley, sidewalk or other public right-of-way within the limits of the City shall be done by a bonded contractor. Unless acting under a contract with the City or under a public improvements developer's agreement, it is unlawful for any person, other than a duly authorized City official or employee in the course of his or her employment, to make or cause or permit to be made any of the above said work, without first acquiring an excavation permit from the City. (Ord. 1112-98, 1998; Ord. 550 82; prior code 13.20.010)

12.04.020 Permit – application.

Any bonded contractor desiring to procure a permit required by Section 12.04.010 above shall file an application with the Director of Public Works at least forty-eight (48) hours before initializing construction. Except for emergencies, no excavation or repair shall be undertaken without a permit. In the case of emergencies, a permit must be acquired for the excavation within twenty-four (24) hours after the work has begun. The Department of Public Works shall be notified by the contractor at least twenty-four (24) hours before planned construction is to commence or upon start-up whenever construction is delayed for any reason. (Ord. 1112-98; Ord. 550 82; prior code 13.20.020)

12.04.030 Permit – deposit requirements.

No permit to excavate in any public right-of-way shall be issued unless the applicant therefor shall have first deposited with the Director of Public Works a performance bond, cash bond or permit bond in an amount sufficient to cover the entire expense of replacing the surface and subsurface material, as required by this Chapter. If for any reason the amount of the deposit made under this Section is insufficient to cover the cost of work covered by it, or if any damage shall have been done not contemplated in the original estimate, which shall have caused increased expenditure by the City, the amounts of such deficiency or damage shall be certified to the Director of Public Works, who shall collect the same from the contractor to whom the permit was issued. No further permits shall be granted to such contractor, or any other person on his or her behalf, until the amount of such deficiency or damage shall have been paid to the City. Utility franchise holders shall be exempt from submitting such performance bond. (Ord. 1112-98; Ord. 550 82; prior code 13.20.030)

12.04.040 Permit – fees.

A fee shall be charged for a permit issued under the provisions of this Chapter for an excavation of twenty-five (25) square feet or less (width x length, excluding depth). For excavations larger than twenty-five (25) square feet, an additional permit fee shall be charged for each additional twenty-five (25) square feet or fraction thereof. Such fees are established by the City Council by resolution. (Ord. 1124-98; Ord. 1112-98; Ord. 550 82; prior code 13.20.060)

12.04.050 Permit – investigation fee for working without first obtaining a permit or not complying with a previously issued permit.

Whenever any work for which a permit is required under this Chapter is commenced without first obtaining said permit, a special investigation fee shall be made before a permit may be issued for such

work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. If a permit is issued and the contractor is not complying with the provisions of this Chapter, the contractor is subject to an investigation fee under the issued permit. The investigation fee shall be equal to the amount of the required permit fee. (Ord. 1112-98; Ord. 550 82; prior code 13.20.050)

12.04.060 Permit – denial of issuance.

The Director of Public Works shall have the authority to withhold issuance of a excavation permit to applicants who have failed to comply with regulations for work related to previously issued permits. (Ord. 1112-98)

12.04.070 Deposit return conditions.

After completion of the work covered by a permit issued under this Chapter, to the satisfaction of the Director of Public Works, the contractor shall certify the cost of any work or materials performed or furnished by the City. After deducting any such amount from the deposit, the Director of Public Works shall pay any surplus remaining from the amount deposited under Section 12.04.030 above to the person making the deposit. (Ord. 1112-98)

12.04.080 Supervision of work.

All work on any excavation or opening in or under any street, sidewalk, alley or any other public right-of-way shall be under the supervision of the Director of Public Works. (Ord. 1112-98; Ord. 550 82; prior code 13.20.070)

12.04.090 Rubber-tired equipment required.

All equipment placed on public streets and used for the cutting, ditching, backfilling or repairing of asphalt streets shall be on rubber tires, or placed on rubber pads, to prevent the marring or defacing of the asphalt surface. (Ord. 1112-98; Ord. 550 82; prior code 13.20.180)

12.04.100 Open cut method.

Unless otherwise specifically authorized by the Director of Public Works, all openings and excavations authorized under the provisions of this Chapter shall be made by the open cut method. Asphalt openings shall be cut to the full thickness of the asphalt on a vertical face in a neat and rectangular shape, in order that repair may be made in a proper manner. (Ord. 1112-98; Ord. 550 82; prior code 13.20.080)

12.04.110 Width of openings.

The width of any opening or excavation authorized by the provisions of this Chapter shall be no greater than is necessary for doing the work. In no case shall more than one-half (½) of the width of any street be opened at any one (1) time, and, in all cases, one-half (½) of such street shall remain intact for the accommodation of traffic, until the first half is restored for safe use, unless specifically authorized by the Director of Public Works. (Ord. 1112-98; Ord. 550 82; prior code 13.20.090)

12.04.120 Undercutting prohibited.

No opening or excavation made in any street, sidewalk or any other public right-of-way shall be undercut, or have a greater width at the bottom than at the top. (Ord. 1112-98; Ord. 550 82; prior code 13.20.100)

12.04.130 Protection for workmen.

Due precautions shall be taken for the protection of workmen when any excavation under this Chapter is undertaken. It is the contractor's responsibility to maintain and secure the safety of himself or herself, his or her subcontractors and the public. (Ord. 1112-98; Ord. 550 82; prior code 13.20.140)

12.04.140 Public convenience required.

All work on openings or excavations in or under any street, sidewalk or other public right-of-way shall be performed in such a way as to cause a minimum of inconvenience and restriction to both pedestrian and vehicular traffic. (Ord. 1112-98; Ord. 550 82; prior code 13.20.150)

12.04.150 Protection of pipes, poles and other equipment.

A. Any contractor making an opening or excavation in or under any street, sidewalk or other public right-of-way shall, at his or her expense, sustain, secure and protect any pipes, poles, mains or conduits laid or erected in public right-of-way from damage, and replace and pack the earth wherever the same shall have been removed, loosened or disturbed under or around them, so that they shall be well and substantially supported.

B. If any contractor fails to sustain, secure or protect pipes, poles, mains, conduits or similar equipment from damage, or to replace and pack the earth under or around such appurtenances, as the provisions of this Section requires, then the repairs may be done by the owner of such appurtenances, and the cost thereof and all damages sustained by such owner shall be paid by such contractor; and in default thereof, such owner may maintain an action against the contractor therefor. (Ord. 1112-98; Ord. 550 82; prior code 13.20.130)

12.04.160 Traffic control – required.

A traffic control plan shall be submitted to the Department of Public Works a minimum of forty-eight (48) hours prior to commencing work. The contractor/owner shall be responsible for all types of traffic, including pedestrians, in the construction area. The contractor/owner making or causing to be made any excavation or opening in any street, alley, sidewalk or other public right-of-way, or within five (5) feet of a traveled pathway, shall keep the excavation traffic control properly maintained at all times; and between sunset and sunrise on every night the same remains open or danger exists there from, they shall keep such excavation or opening properly lighted so as to warn all persons of such excavation or opening, and all obstructions. All traffic control devices shall be of substantial construction, and shall be furnished by the person doing the work. Safety devices must be in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and the Colorado Supplement to the MUTCD. (Ord. 1112-98)

12.04.170 Traffic control – removal prohibited when.

It is unlawful for any unauthorized person to remove or interfere in any way with any traffic control devices or other danger signals placed around the excavation or opening in any street, alley, sidewalk or other public right-of-way. (Ord. 1112-98)

12.04.180 Cuts in pavement – technical specifications – resurfacing.

A. The Director of Public Works shall promulgate technical specifications for the repair of street cuts and excavations and provide for the inspection and acceptance of street cut repairs.

B. The area surrounding the opening shall be cleared of all debris and left in its original condition. All work areas will be cleaned thoroughly before acceptance by the City. (Ord. 1112-98)

12.04.190 Variances from chapter provisions.

Applications for a variance or modification to the provisions of this Chapter shall be submitted to the Zoning Board of Appeals, such application shall include a statement setting forth the nature and the extent of the requested variance or modification, together with evidence supporting need for such variance. (Ord. 1112-98)

12.04.200 Inspections.

All work shall be inspected by a designated representative of the Department of Public Works who shall have the authority to halt construction. Whenever any portion is found to be in violation of the approved plans, the Director of Public Works, by written notice, may order that portion of construction which is in violation of this chapter or other approved plans, specifications and materials to cease until such violation is corrected. A copy of the notice shall be filed with the contractor's permit application for future review. If deficiencies are not corrected, performance shall be required of the contractor's surety. A reinspection of constructed facilities shall occur at the end of the one-year warranty period. (Ord. 1112-98)

12.04.210 Timely completion of work.

All openings shall be completely repaired to original condition within ten (10) days after the job for which the cut was made is completed, extensions may be authorized by the Director of Public Works for weather conditions or for other substantial reasoning. Any work not completed within the ten (10) days and does not have an authorized extension is subject to an investigation fee. (Ord. 1112-98; Ord. 550 82; prior code 13.20.170)

12.04.220 Liability limitations.

Any contractor who acquires a permit for work within public right-of-way shall indemnify and hold harmless the City from any and all suits, claims, losses or damages which arise from or are connected with or result from such work. (Ord. 1112-98; Ord. 550 82; prior code 13.20.040)

12.04.230 Violation – penalty.

Any person who violates any of the provisions of this Chapter is guilty of a violation of this Chapter and shall be punished as provided in Section 1.16.010 of this Code. (Ord. 1112-98; Ord. 842-92; Ord. 550 82; prior code 13.20.190)